

Message Text

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ORIGIN L-03

INFO OCT-01 IO-12 ADP-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10

RSC-01 PM-09 H-02 NSC-10 CIAE-00 DODE-00 INR-10

NSAE-00 PA-03 USIA-12 PRS-01 ACDA-19 OIC-04 /154 R

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TO USMISSION GENEVA PRIORITY

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 091720

E. O. 11652: GDS

TAGS: PFOR, UN

SUBJECT: DEFINITION OF AGGRESSION COMMITTEE: LIST OF ACTS
OF AGGRESSION

REFS: (A) GENEVA 2033; (B) STATE 85361; (C) GENEVA 2110;

(D) GENEVA 2103; (E) GENEVA 2144

1. DEPT UNDERSTANDS FROM REFTELS (A), (C), (D), AND (E)
THAT NON- ALIGNED MIGHT WANT SPECIFIC LANGUAGE ON PROPOR-
TIONALITY AS WELL AS CLAUSE PROTECTING RIGHT OF SELF-
DETERMINATION IN RETURN FOR INCLUSION OF INDIRECT USES OF
FORCE IN DEFINITION OF AGGRESSION TEXT.

2. PAST U. S. POSITIONS HAVE FAVORED BARGAINING OFF A SELF-
DETERMINATION PROVISION FOR INCLUSION OF INDIRECT USES OF
FORCE BUT HAVE NOT HERETOFORE LINKED PROPORTIONALITY WITH
GAINING ACCEPTANCE OF INDIRECT USES OF FORCE. IN 1971
USDEL WAS AUTHORIZED TO INDICATE, IN CONNECTION WITH PROBLEM
OF WEAPONS OF MASS DESTRUCTION AND IN THE CLAUSE ABOUT
BOMBARDMENTS, OUR WILLINGNESS TO SPECIFY THAT SELF- DEFENSE
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IN VIOLENT DISPROPORTION TO THE ATTACK SUFFERED MAY BE
FOUND BY THE COUNCIL IN AN APPROPRIATE CASE TO CONSTITUTE
AGGRESSION.

3. IT IS NOT PROPORTIONALITY AS LEGAL PRINCIPLE THAT IS
OBJECTIONABLE. U. S., AS DEL RIGHTLY AFFIRMS, HAS TRADI-
TIONALLY UPHELD THIS PRINCIPLE AS INHERENT IN LAW OF

SELF- DEFENSE. HOWEVER, BECAUSE OF DIFFICULTIES IN FINDING
SATISFACTORY FORMULATION WHICH WILL TAKE INTO ACCOUNT ITS
MANIFOLD RAMIFICATIONS (ONLY SOME OF WHICH WERE INDICATED
IN REFTEL (B)), DEPT BELIEVES THAT USDEL SHOULD CONTINUE
TO SEEK WAYS AROUND REFERENCES TO PROPORTIONALITY. MORE-
OVER, WHILE WE ATTACH PRIMARY IMPORTANCE TO INCLUSION OF
INDIRECT USES OF FORCE IN DEFINITION, DEPT DOES NOT CON-
SIDER THAT TACTICAL SITUATION AT PRESENT STAGE OF SPECIAL
COMMITTEE SESSION REQUIRES U. S. TO PROPOSE COMPROMISES
GOING BEYOND POSITION PAPER STRATEGY CONCERNING ISSUES OF
PROPORTIONALITY AND SELF- DETERMINATION. DEPT CONTINUES
TO PREFER NO DEFINITION TO WEAK OR UNSATISFACTORY ONE
AND BELIEVES THAT FURTHER CONCESSIONS NEEDED FROM THOSE
WHO WANT DEFINITION MORE THAN WE DO. RUSH

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*** Current Classification *** CONFIDENTIAL

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